

Appl. No. : 10/691,695
Amdt. dated July 12, 2006
Reply to Office Action mailed April 12, 2006

Amendments to the Drawings:

Figure 1 is amended per Examiner's request in Item 2 of the office action mailed on 04/12/2006. Previously submitted Figure 13 is canceled and new Figure 13 is submitted. Previously submitted Figure 15 is canceled.

Attachments: Three Sheets; Replacement with Figure 1, Annotated with Figure 1, New with Figure 13.

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Remarks/Arguments

Specification

Paragraph [0006] is amended to read “syringe guides corresponding to different sizes of syringes for differing doses of medication” instead of “syringe guides corresponding to different sizes for differing doses of medication” to more clearly indicate the correspondence between the syringe guides and the different sizes is to the different sizes of syringes.

Paragraph [0009] is amended to read “the present invention can be used with other types of syringes such as those customarily used in insulin pumps” rather than “the present invention can be used with other syringes such as those customarily used in insulin pumps” to more clearly indicate what kind of variation is meant by “types of syringes”.

Paragraph [0020] is amended to read “The apparatus can even accommodate syringes used in insulin pumps and other types of syringes.” instead of “The apparatus can even accommodate syringes used in insulin pumps.” to more clearly indicate what kind of variation is meant by “types of syringes”.

Paragraph [0034] is amended to refer to Figure 1 as amended.

Paragraphs [0041.1] and [0041.2] are inserted to describe new figures, Figure 13 and Figure 14.

Paragraph [0042] is amended and paragraphs [0042.1] and [0042.3] are inserted to more accurately discuss Figure 1 which now has the one or more syringe guides shown.

Paragraph [0042.3] is inserted to reference Figure 13 which shows interchangeable

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syringe guide (18) in location in section box (16) and syringe (12) inserted through syringe guide (18).

Drawings

In response to Item 2

In item 2 of the office action mailed on 4/12/06, Examiner objects to especially Figure 1 under 37 CFR 1.83a and states that “more than one interchangeable syringe guides as recited in claims 1 & 27, ... must be shown or the feature(s) canceled from the claim(s)”. In this response, Applicant submits an amended Fig. 1 showing more than one interchangeable syringe guides. Syringe guide 18b accommodates a syringe 12b of different size and type than syringe guide 18 accommodates. Syringe retainer 20b on syringe guide 18b is the same as the single syringe retainer 20 on syringe guide 18. New Fig. 13 now shows syringe guide 18 coupled with sectioned box 16 and syringe 12 inserted through syringe guide 18 to medicine vial 14.

Also in item 2 of the office action mailed on 4/12/06, Examiner objects to the drawings for not illustrating an element claimed in Claim 17 under 37 CFR 1.83a and states that “the lid assists in retaining the syringes as recited in claim 17 must be shown or the feature(s) canceled from the claim(s)”. Claim 17 is canceled in response to this objection.

In response to Item 1

In item 1 of the office action mailed on 4/12/06, Examiner disapproves new Figures 13-15 stating that they contain new matters. Amended Figure 1 is now very similar to the Figure 13 submitted in the response to the office actions mailed on May 17, 2005 and December 29, 2005.

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Amended Figure 1 now includes "more than one interchangeable syringe guides as recited in claims 1 & 27" as required by the Examiner in the office action mailed April 12, 2006 as well as the office action mailed May 17, 2005. New Figure 13 is now essentially the same as the originally submitted Figure 1 and now serves to illustrate the placement of syringe guide 18 into sectioned box 16 and the retention of syringe 12 with syringe retainers 20. Figure 1 is amended specifically in response to Examiner's requirements.

Also in item 1 of the office action mailed on 4/12/06, Examiner disapproves Figure 14, stating that it introduces new matter. In particular, Examiner states that "the restrain structures around the neck (shown in Figure 14) include new matter that were not described in the original disclosure". Applicant respectfully disagrees. Applicant draws Examiner's attention to Fig. 4 where vial box (60) has the same "restrain structures" around the neck of medicine vial (62). Figure 4 is an originally submitted figure. Applicant contends that for these reasons, Figure 14 does not introduce new matter.

Again, in item 1 of the office action mailed on 4/12/06, Examiner disapproves Figure 15, stating that it introduces new matter. Although Applicant submitted Figure 15 in direct response to Examiner's requirements in the office action mailed on May 17, 2005 that "the lid assists in retaining the syringes as recited in claim 17 must be shown or the feature(s) canceled from the claim(s).", Applicant cancels Figure 15. In the "Amendments to the Claims" section Applicant is also canceling Claim 17.

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Claims

In response to Item 4

In item 4 of the office action mailed on 4/12/06, Examiner rejects claims 1-5, 8, 9, 13-17, 27, 39 and 40 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Examiner states that “it is unclear what structural limitation applicant intends to cover when claim 1 calls for ‘one or more interchangeable syringe guides’”. Applicant has amended Figure 1 to illustrate a second interchangeable guide that is capable of accommodating a syringe of a different size and / or type. The second interchangeable syringe guide (18b) now shown in Figure 1 is capable of accommodating a syringe (12b) of a different size. While describing the instant invention in paragraph [0006] of the specification, Applicant states “The apparatus include a series of interchangeable syringe guides corresponding to different sizes ...”. In the originally submitted paragraph [0042], Applicant describes syringe guide member (18) as changeable. Applicant currently amends paragraph [0042] to reference Figure 1 as amended as requested by Examiner. In referring to amended Figure 1, currently amended paragraph [0042] now references “changeable syringe guide members (18 & 18b)” and “Interchangeable syringe guide members (18a & 18b)”. Further in describing how the apparatus is used, Applicant in original paragraph [0043] describes selecting a changeable syringe guide member (18) and placing in sectioned box (16). Applicant contends that amended Figure 1 and the specification support “more than one interchangeable syringe guides”.

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In item 4, Examiner states that in Claim 1 “said syringe guides” lack antecedent basis. Applicant currently amends Claim 1 to use the formulation “said interchangeable syringe guides” to repeat the element as initially cited.

In item 4, Examiner states with regard to claim 2, that “said means is capable of holding different sizes of medicine vials” lacks sufficient support in the specification. Applicant calls Examiner’s attention to Figures 2, 5, and 13 and to paragraph [0029] which reads “It is still yet another objective of this invention to accommodate several sizes of medicine vials.” Applicant currently amends the specification by inserting paragraph [0049.1] which calls attention to the extra space in the compartments holding the medicine vial. Applicant also currently amends Claim 2 to state “means for holding a medicine vial” to use the formulation of claim 1.

In response to Item 6

In item 6, Examiner reasserts the previous rejection of claims 1-5, 8, 13, 14, 27, and 40 as being anticipated by Tetreault, U.S. Patent 5,247,972. Applicant currently amends claim 1 to state “one or more interchangeable syringe guides operably associated with said means for holding a medicine vial and interchangeable with each other with respect to said means for holding a medicine vial,”. This statement more clearly distinguishes the invention of the instant application from Tetreault. Examiner reasserts that housing 10 holds medicine vial 50, but nowhere in Tetreault does the specification state that housing 10 holds medicine vial 50. Rather, finger-like protrusions 30 on one end of inner tube 20 are what hold medicine vial 50. Absent

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the presence of inner tube 20 in housing 10, housing 10 would have no means for holding a medicine vial. Tetreault describes the inner surface of the protrusions 30 to describe how the protrusions hold and release medicine vial 50.

Applicant currently amends claim 1 to specifically claim that the interchangeable syringe guides are "interchangeable with each other with respect to said means for holding a medicine vial". This makes clear that the interchangeable syringe guides of the instant invention are moveable with respect to the means for holding the medicine vial. Inner tube 20 of Tetreault is not moveable with respect to finger-like protrusions 30, and are therefore not interchangeable with respect to each other.

MPEP §2131 requires that to anticipate a claim, the reference must teach every element of the claim. It further states, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Applicant has amended claim 1 to include a limitation not anticipated in Tetreault. The syringe guide, inner tube 20 in Tetreault and the means that holds the medicine vial in Tetreault, finger-like protrusions 30, are not interchangeable with respect to each other. Applicant respectfully requests that the Tetreault reference be withdrawn.

In response to Item 7

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In item 7, Examiner reasserts the previous rejection of claims 1-5, 8, 13, 16, 17, and 39 as being anticipated by Larrabee, U.S. Patent 3,993,063. Applicant respectfully disagrees. Examiner has not shown where in Larrabee that syringe shield 44 is indicated as being interchangeable. Syringe shield 44 is glued into threaded section 38, and no mention is made in Larrabee about the removal of this assembly. Applicant currently amends claim 1 to read "said interchangeable syringe guides accommodating different sizes and types of syringes. While Examiner has construed types of syringes to mean material differences, rather than actual variance in shape of the syringes, Examiner has not asserted that the syringe shield 44 in Larrabee can accommodate different sizes of syringes.

MPEP §2131 requires that to anticipate a claim, the reference must teach every element of the claim. It further states, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Also, as held in *Paperless Accounting, Inc. v. Bay Area Rapid Transit System*, 804 F.2d 659, 665 231 USPQ 649 653 (Fed. Cir. 1986): "[A] § 102(b) reference must sufficiently describe the claimed invention to have placed the public in possession of it.... [E]ven if the claimed invention is disclosed in a printed publication, that disclosure will not suffice as prior art if it was not enabling...."

Applicant currently amends claim 1 to indicate that interchangeable syringe guides can accommodate different sizes and types of syringes. Examiner does not assert that Larrabee can

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accommodate different sizes. Larrabee does not set forth all the elements of the instant invention, and is not enabling with regard to handling syringes of different sizes. Applicant respectfully requests that Larrabee be withdrawn.

In response to Item 10

In item 10, Examiner objects to Figures 13 through 15 as introducing new matter. Applicant cancels Figure 15. However, Applicant currently amends Figure 1 as required by Examiner to show all of the elements claimed in claim 1. Element 18b now shown in Figure 1, illustrate the multiple interchangeable syringe guides of the “one or more “ formulation. Element 20b is merely a part of 18b just as element 20 is a part of element 18. New Figure 13 is submitted to be essentially what Figure 1 was in the original filing. In item 1, Examiner objected to Figure 14 as introducing new matter at “the restrain structures around the neck”. Applicant draws Examiner’s attention to the same structures in originally submitted Figure 4.

Amended Claims

Claim 1

As noted in the response to Examiner’s item 6 Applicant currently amends claim 1 to specifically claim that the interchangeable syringe guides are “interchangeable with each other with respect to said means for holding a medicine vial”, and as noted in the response to examiner’s item 7, Applicant currently amends claim 1 to indicate that interchangeable syringe

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guides can accommodate different sizes and types of syringes.

Claim 2

As noted in the response to Examiner's item 7, Applicant also currently amends Claim 2 to state "means for holding a medicine vial" to use the formulation of claim 1.

The Applicants hereby respectfully ask that the Application be amended as shown and approved for advancement and allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "R. Waters", with a long horizontal flourish extending to the right.

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